

# HOUSE BILL 395

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CF SB 921

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By: **Delegate Hammen (Chair, Health and Government Operations Committee)**

Introduced and read first time: February 1, 2012

Assigned to: Health and Government Operations

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Committee Report: Favorable

House action: Adopted

Read second time: February 29, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Board of Nursing – Sunset Extension and Revisions**

3 FOR the purpose of continuing the State Board of Nursing in accordance with the  
4 provisions of the Maryland Program Evaluation Act (sunset law) by extending  
5 to a certain date the termination provisions relating to the statutory and  
6 regulatory authority of the Board; requiring that an evaluation of the Board and  
7 the statutes and regulations that relate to the Board be performed on or before  
8 a certain date; requiring the Board to submit a certain annual report to the  
9 General Assembly; specifying the data that must be included in a certain  
10 annual report; altering a certain requirement related to the application for a  
11 license to practice registered nursing or licensed practical nursing; altering a  
12 certain requirement related to the application for certification as a certified  
13 nursing assistant; altering the membership of a certain advisory committee;  
14 requiring a certain advisory committee to meet at least once during a certain  
15 time period; requiring the Board to contract with an independent entity to  
16 perform a certain personnel study to be completed on or before a certain date;  
17 requiring the Board to report to certain committees of the General Assembly on  
18 the implementation and use of certain sanctioning guidelines on or before a  
19 certain date; requiring the Board to report to certain committees of the General  
20 Assembly on the implementation of certain recommendations; requiring the  
21 report to include certain information and a certain plan; making a stylistic  
22 change; and generally relating to the State Board of Nursing.

23 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Health Occupations  
 2 Section 8–205(a)(8), 8–304, 8–6A–05(c)(2), 8–6A–13, and 8–802  
 3 Annotated Code of Maryland  
 4 (2009 Replacement Volume and 2011 Supplement)

5 BY repealing and reenacting, without amendments,  
 6 Article – State Government  
 7 Section 8–403(a)  
 8 Annotated Code of Maryland  
 9 (2009 Replacement Volume and 2011 Supplement)

10 BY repealing and reenacting, with amendments,  
 11 Article – State Government  
 12 Section 8–403(b)(40)  
 13 Annotated Code of Maryland  
 14 (2009 Replacement Volume and 2011 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Health Occupations**

18 8–205.

19 (a) In addition to the powers and duties set forth elsewhere in this title, the  
 20 Board has the following powers and duties:

21 (8) To submit [an annual report] to the Governor, [and] **THE**  
 22 **Secretary, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT**  
 23 **ARTICLE, THE GENERAL ASSEMBLY, AN ANNUAL REPORT THAT INCLUDES THE**  
 24 **FOLLOWING DATA CALCULATED ON A FISCAL YEAR BASIS:**

25 **(I) THE NUMBER OF INITIAL AND RENEWAL LICENSES AND**  
 26 **CERTIFICATES ISSUED;**

27 **(II) THE NUMBER OF POSITIVE AND NEGATIVE CRIMINAL**  
 28 **HISTORY RECORDS CHECKS RESULTS RECEIVED;**

29 **(III) THE NUMBER OF INDIVIDUALS DENIED INITIAL OR**  
 30 **RENEWAL LICENSURE OR CERTIFICATION DUE TO POSITIVE CRIMINAL HISTORY**  
 31 **RECORDS CHECKS RESULTS;**

32 **(IV) THE NUMBER OF INDIVIDUALS DENIED LICENSURE OR**  
 33 **CERTIFICATION DUE TO REASONS OTHER THAN A POSITIVE CRIMINAL HISTORY**  
 34 **RECORDS CHECK;**

- 1                   **(V) THE NUMBER OF NEW COMPLAINTS RECEIVED;**  
2                   **(VI) THE NUMBER OF COMPLAINTS CARRIED OVER FROM**  
3 **YEAR TO YEAR;**  
4                   **(VII) THE MOST COMMON GROUNDS FOR COMPLAINTS; AND**  
5                   **(VIII) THE NUMBER AND TYPES OF DISCIPLINARY ACTIONS**  
6 **TAKEN BY THE BOARD;**

7 8–304.

8           To apply for a license to practice registered nursing or licensed practical  
9 nursing, an applicant shall:

10                   (1) **[(i)]** Submit to a criminal history records check in accordance  
11 with § 8–303 of this subtitle; **[or**

12                                   (ii) Have completed a criminal history records check in  
13 accordance with § 8–303 of this subtitle through another state board of nursing within  
14 the 5 years preceding the date of application;]

15                   (2) Submit to the Board:

16                                   (i) An application on the form that the Board requires;

17                                   (ii) Written, verified evidence that the requirement of item (1) of  
18 this subsection is being met or has been met; and

19                                   (iii) Written, verified evidence of completion of the appropriate  
20 education requirements of § 8–302 of this subtitle; and

21                   (3) Pay to the Board the application fee set by the Board.

22 8–6A–05.

23           (c) (2) Subject to paragraph (1) of this subsection, an applicant for  
24 certification as a certified nursing assistant shall submit to the Board:

25                                   (i) **[1.]** A criminal history records check in accordance with §  
26 8–303 of this title; **[or**

27   2. Evidence of completion of a criminal history records  
28 check in accordance with § 8–303 of this title through another state board of nursing  
29 within the 5 years preceding the date of application;] and

1 (ii) On the form required by the Board, written, verified  
2 evidence that the requirement of item (i) of this paragraph is being met or has been  
3 met.

4 8-6A-13.

5 (a) The Board shall appoint an advisory committee consisting of at least [14]  
6 **15** members appointed by the Board.

7 (b) Of the [14] **15** committee members:

8 (1) Six shall be nursing assistants:

9 (i) One shall be an acute care nursing assistant;

10 (ii) One shall be a home care nursing assistant;

11 (iii) One shall be a long-term care nursing assistant;

12 (iv) One shall be an adult medical day care nursing assistant;

13 (v) At least one of the nursing assistant members shall be a  
14 member of a union; and

15 (vi) One shall be an independent contractor;

16 (2) Three shall be registered nurses:

17 (i) One shall be an acute care registered nurse;

18 (ii) One shall be a home care registered nurse; and

19 (iii) One shall be a long-term care registered nurse;

20 (3) One shall be an administrator from a licensed health care facility;

21 (4) One shall be a licensed practical nurse;

22 (5) One shall be an individual who teaches a nursing assistant course;

23 (6) One shall be a consumer member who has received care, or has a  
24 family member who has received care from a nursing assistant; [and]

25 (7) One shall be a representative of the Department; **AND**

1           **(8) ONE SHALL BE A CERTIFIED MEDICATION TECHNICIAN.**

2           (c) The Board shall appoint an alternate for each of the three nursing  
3 assistant members in the event that the nursing assistant member is unable to  
4 discharge the duties of the committee.

5           (d) An advisory committee member shall serve a term of 4 years.

6           **(E) THE ADVISORY COMMITTEE SHALL MEET AT LEAST ONCE A MONTH.**

7           **[(e)] (F)** The advisory committee shall:

8                   (1) Evaluate training programs and make recommendations for  
9 approval by the Board;

10                   (2) Develop and recommend regulations to enforce the provisions of  
11 this subtitle;

12                   (3) Evaluate candidates as required and recommend action to the  
13 Board;

14                   (4) Review investigations of complaints against nursing assistants or  
15 medication technicians and make recommendations to the Board for disciplinary  
16 action;

17                   (5) Keep a record of its proceedings; and

18                   (6) Submit an annual report to the Board.

19 8–802.

20           Subject to the evaluation and reestablishment provisions of the Program  
21 Evaluation Act, the provisions of this title and of any rule or regulation adopted under  
22 this title shall terminate and be of no effect after July 1, [2013] **2023**.

23   **Article – State Government**

24 8–403.

25           (a) On or before December 15 of the 2nd year before the evaluation date of a  
26 governmental activity or unit, the Legislative Policy Committee, based on a  
27 preliminary evaluation, may waive as unnecessary the evaluation required under this  
28 section.

29           (b) Except as otherwise provided in subsection (a) of this section, on or before  
30 the evaluation date for the following governmental activities or units, an evaluation

1 shall be made of the following governmental activities or units and the statutes and  
2 regulations that relate to the governmental activities or units:

3 (40) Nursing, State Board of (§ 8–201 of the Health Occupations Article:  
4 July 1, [2012] **2022**);

5 SECTION 2. AND BE IT FURTHER ENACTED, That:

6 (a) The State Board of Nursing shall contract with an independent entity to  
7 perform a personnel study to determine the necessity and allocation of additional staff.

8 (b) The study required under subsection (a) of this section shall:

9 (i) 1. include an analysis of the workload of the Board related to  
10 its licensure, certification, and complaint resolution functions; and

11 2. consider at a minimum the number of applications and  
12 complaints received by the Board, the number of employees assigned to each step of  
13 each function, and the amount of time an application or complaint remains at each  
14 step of each function;

15 (ii) include an analysis of the impact on staffing needs of:

16 1. the online processing of licenses and certificates; and

17 2. the movement to biennial renewal of licenses; and

18 (iii) make recommendations on the most effective use of existing staff,  
19 including cross training and reassignment.

20 (c) The study required under subsection (a) of this section shall be completed  
21 on or before October 1, 2013.

22 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,  
23 2012, the State Board of Nursing shall report to the Senate Education, Health, and  
24 Environmental Affairs Committee and the House Health and Government Operations  
25 Committee, in accordance with § 2–1246 of the State Government Article, on the  
26 implementation and use of the sanctioning guidelines required by Chapters 533 and  
27 534 of the Acts of the General Assembly of 2010.

28 SECTION 4. AND BE IT FURTHER ENACTED, That:

29 (a) On or before October 1, 2013, the State Board of Nursing shall report to  
30 the Senate Education, Health, and Environmental Affairs Committee and the House  
31 Health and Government Operations Committee, in accordance with § 2–1246 of the  
32 State Government Article, on the implementation of nonstatutory recommendations  
33 contained in the sunset evaluation report dated October 2011.

1 (b) The report required under subsection (a) of this section shall include:

2 (1) information on how the Board has improved its use of data  
3 collection and tracking for the application and complaint resolution processes; and

4 (2) the Board's plan to implement the findings of the personnel study  
5 required under Section 2 of this Act.

6 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 June 1, 2012.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.